

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sonja Rucnov	Team: Team # 8	CCRB Case #: 200903161	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/25/2009 9:20 PM	Location of Incident: § 87(2)(b)	Precinct: 46	18 Mo. SOL 8/25/2010	EO SOL 8/25/2010	
Date/Time CV Reported Mon, 03/02/2009 4:24 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/02/2009 4:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Rafael Perdomo	21268	942338	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kariel Aponte	23296	945473	046 PCT
2. POM Richard Christopher	03700	941558	043 PCT
3. POM Harry Delacruz	20377	941272	046 PCT
4. POM Ezequiel Burgos	00211	941471	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Rafael Perdomo	Discourtesy: PO Rafael Perdomo spoke obscenely and rudely to § 87(2)(b)	§ 87(2)(b)
B.POM Rafael Perdomo	Abuse: PO Rafael Perdomo refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On March 3, 2009, § 87(2)(b) called the CCRB to file this complain (encl. 4a-4b). On February 25, 2009, at approximately 9:20 PM, § 87(2)(b) was in his van double-parked in front of § 87(2)(b) when a police van stopped next to his car.

- **Allegation A – Abuse of Authority:** PO Rafael Perdomo spoke obscenely and rudely to § 87(2)(b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)
- **Allegation B – Abuse of Authority:** PO Rafael Perdomo refused to provide his name and shield number to § 87(2)(b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

The case was referred to the ADR unit on June 29, 2009. On August 28, 2009, the case was rejected for mediation by ADR Committee.

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

§ 87(2)(b)  
§ 87(2)(b)

#### CCRB Testimony

On March 13, 2009, § 87(2)(b) provided a phone statement to the CCRB (encl. 5a). On March 18, 2009, the CCRB interviewed § 87(2)(b) (encl. 5b-5c). § 87(2)(b) and his girlfriend, § 87(2)(b) were picking up § 87(2)(b)'s daughter, § 87(2)(b) from § 87(2)(b)'s mother's house. § 87(2)(b) double-parked his car in front of the building, while they were waiting for § 87(2)(b) to come down. A police van parked next to § 87(2)(b)'s car, and an officer, identified as PO Harry Delacruz of the 46<sup>th</sup> Precinct, asked § 87(2)(b) from the front passenger side to provide his driver's license and registration. § 87(2)(b) could not find his driver's license. An officer, identified PO Rafael Perdomo of the 46<sup>th</sup> Precinct, the driver of the police car, asked § 87(2)(b) why it was taking him so long. After § 87(2)(b) responded that he was looking for his wallet, PO Perdomo told § 87(2)(b) "Shut the fuck up and get the papers." (**Allegation A**)

PO Perdomo asked § 87(2)(b) to pull up, and he complied. An officer, identified as PO Richard Christopher of the 43<sup>rd</sup> Precinct, came out of the police van and approached § 87(2)(b)'s window. § 87(2)(b) provided his credit card and a statement with his date of birth to PO Christopher. PO Christopher went back to the police van, and came back with two tickets: § 87(2)(b) for double-parking by PO Aponte and § 87(2)(b) for driving without a license issued by PO Christopher. § 87(2)(b) asked PO Christopher to provide him with the names and shield numbers of all the officers. PO Christopher told § 87(2)(b) to get the information from the summonses. § 87(2)(b) answered that there were only two names on the summonses, while there were more police officers in the van. § 87(2)(b) got out of his car, approached the driver's window on the police van, and asked for the officers' names and badge numbers. PO

Perdomo told him to get them from the tickets (**Allegation B**). § 87(2)(b) responded that there were four of them and only two names on the summonses and asked for the officers' names and shield numbers once more. The officers did not respond.

## **Results of Investigation**

### **Attempts to Contact Civilians**

On September 9 and September 17, 2009, the CCRB sent two letters to § 87(2)(b). Between September 9 and November 4, 2009, the CCRB placed five phone calls to § 87(2)(b) and § 87(2)(b). On September 9, 2009, the CCRB spoke on the phone to § 87(2)(b) who asked the CCRB to call her back. On September 9, September 16, and September 17, 2009, the CCRB spoke with § 87(2)(b) mother who took messages for § 87(2)(b) to contact the CCRB back.

Neither § 87(2)(b) nor § 87(2)(b) ever called back.

### **NYPD Statements**

#### **Subject Officer: PO RAFAEL PERDOMO**

- § 87(2)(b) -year-old Hispanic male, height 5'09", weight 210 pounds, black eyes, and bald.
- On the incident date, PO Perdomo was assigned to patrolling and van 5849. He worked from 1:30 p.m. to 2:05 a.m. with PO Burgos, PO Christopher, and PO Aponte.

On September 22, 2009, PO Perdomo was interviewed at the CCRB (encl. 6c-6d). PO Perdomo had no recollection of the incident and could not recognize § 87(2)(b) when he was presented with a photograph of him. PO Perdomo denied using or hearing any other officer use profanity against § 87(2)(b) including, "Shut the fuck up." PO Perdomo could not recall if § 87(2)(b) asked him or the other officers for their names and shield numbers.

#### **Witness Officers:**

##### **PO KARIEL APONTE**

- § 87(2)(b) -year-old Hispanic male. Height 5'09", weight 183 pounds, brown eyes and hair.
- On the incident date, assigned to special post 1 and to van 8610. He worked in uniform from 5:30 p.m. to 2:05 a.m. with PO Christopher, PO Perdomo, PO Delacruz, and PO Burgos.

### **Summons**

PO Aponte cited, at 9:49 p.m., § 87(2)(b) summons for parking violation to plate § 87(2)(b) (encl. 7a).

### **Memo Book**

PO Aponte's memo book cited, "at 9:49 p.m. summons § 87(2)(b) issued to license plate § 87(2)(b) a suspect who was double parked, failed to show his driver's license and became irate and disrespectful." (encl. 7c)

### **CCRB Testimony**

On September 10, 2009, at 12:15 PM, PO Kariel Aponte was interviewed at CCRB (encl. 7e-7f). On February 25, 2009, PO Aponte, PO Burgos, PO Perdomo, PO Christopher, and PO Delacruz were patrolling Grand Concourse and the surrounding area. PO Aponte observed § 87(2)(b)'s double parked vehicle, and the officers pulled up next to § 87(2)(b)'s vehicle. PO Aponte could not recall who asked § 87(2)(b) for his driver's license, but PO Aponte wrote one summons for § 87(2)(b). PO Aponte never stated, "Shut the fuck up and give me your license," but could not confirm if his partners told § 87(2)(b) "Shut the fuck up," or used any profanity towards § 87(2)(b). PO Aponte could not remember how § 87(2)(b) got irate or disrespectful with the officers. He could not recall whether § 87(2)(b) asked him or the other officers their names or shield numbers.

#### **PO RICHARD CHRISOPHER**

- § 87(2)(b)-year-old white male, height 6', weight 180 pounds, blue eyes, and brown hair.
- On the incident date, PO Christopher was assigned to patrolling and van 5849. He worked from 5:35 p.m. to 02:05 a.m. with PO Aponte, PO Perdomo, PO Delacruz, and PO Burgos.

#### **Memo Book**

The memo book cited summons § 87(2)(b) issued at 9:57 p.m. (encl. 8b).

#### **CCRB Testimony**

On September 16<sup>th</sup> 2009, PO Christopher was interviewed at the CCRB (encl. 8d-8e). On February 25<sup>th</sup> 2009, PO Christopher and his partners observed a van parked in front of a fire hydrant. PO Delacruz was in the front passenger seat, and PO Christopher was in one of the back seats in the van. PO Christopher recalled issuing a summons for not having a driver's license to § 87(2)(b) but could not recall the incident as a whole and was not certain if any other officers wrote an additional summons for § 87(2)(b). PO Christopher denied using any profanity against § 87(2)(b) or hearing other officer using any profanity against including "Shut the fuck up." PO Christopher could not recall if § 87(2)(b) asked him or any of his partners for their names and shield numbers.

#### **PO HARRY DELACRUZ**

- § 87(2)(b)-year-old Hispanic male, height 6'03", weight 163 pounds, black eyes and hair.
- On February 25, 2009, PO Delacruz was assigned to uniformed impact duty from 5:30 PM to 2:05AM. He was assigned to a marked police van. PO Delacruz could not recall the van's number. He worked with PO Perdomo, PO Aponte, and PO Christopher.

#### **PO EZEQUIEL BURGOS**

- § 87(2)(b)-year-old Hispanic male, height 5'08", weight 280 pounds, brown eyes and hair.
- On February 25, 2009, PO Burgos worked from 1 p.m. to 2:05 a.m. with PO Perdomo. He was assigned to patrolling and RMP 5849. PO Burgos did not remember if he worked with any other officers on this date.

#### **CCRB Testimony**

- On September 17, 2009, the CCRB interviewed PO Harry Delacruz (encl. 9c-9d).
- On October 26, 2009, the CCRB interviewed PO Ezequiel Burgos (encl. 10d-10e).

PO Delacruz and PO Burgos had no recollection of the incident and could not recognize § 87(2)(b) when they were presented with a photograph of him. PO Delacruz and PO Burgos denied using or hearing any other officer use any profanity against § 87(2)(b) or including, “Shut the fuck up.” PO Delacruz could not recall if § 87(2)(b) asked him individually or the other officers for their names and shield numbers. However, PO Burgos denied hearing § 87(2)(b)'s request for either his or any other officer's name or shield number.

## **NYPD Documents**

### **Roll call**

The 46<sup>th</sup> Precinct roll call for tour 3 on February 25, 2009, shows that PO Christopher, PO Aponte, PO Delacruz, and PO Perdomo worked and that the last three officers were assigned to RMP 5849 at the beginning of their tour and then switched to RMP 8610 (encl. 11n). PO Burgos was listed among exceptions as not present being on tour 2 (encl. 11r).

### **Disposition of Summonses**

A search in CTS revealed no summons on file for the two summons numbers that § 87(2)(b) received (encl. 11ae-11af).

### **Civilian Criminal History**

A search in BADS revealed § 87(2)(b) had had no criminal convictions in New York City during the last ten years (encl. 11ag).

### **Civilian CCRB History**

This is the first CCRB complaint filed by § 87(2)(b) (encl. 2).

### **Subject Officers CCRB History**

- PO Perdomo has been a member of the service for three years, and there is one substantiated CCRB allegation, Force – other blunt instrument as a club, against him pertaining to CCRB 200807227, which resulted in “charges” (encl. 1a-1b).

## **Conclusions and Recommendations**

### **Identification of Subject Officers**

- PO Aponte and PO Christopher acknowledged they interacted with § 87(2)(b). PO Aponte and PO Christopher identified PO Delacruz, PO Perdomo, and PO Burgos as being present.
- Based on the description provided by § 87(2)(b) the investigation determined PO Perdomo, who was the only bald officer, fit the description of the subject officer.

### **Investigative Findings and Recommendations**

**Allegation A – Abuse of Authority: PO Rafael Perdomo spoke obscenely and rudely to § 87(2)(b)**

§ 87(2)(b) alleged that PO Perdomo told him to shut the fuck up, which PO Perdomo denied. While PO Aponte could not remember if any of his partners stated this, PO Chistopher, PO Delacruz, and PO Burgos denied the use of any profanity by any of the officers.

§ 87(2)(g)

**Allegation B – Abuse of Authority: PO Rafael Perdomo refused to provide his name and shield number to § 87(2)(b)**

According to § 87(2)(b) he approached the driver’s window of the police van and asked PO Perdomo for the officers’ names and shield numbers twice. Po Christopheher and PO Perdomo told § 87(2)(b) on two separate occasions to get the names from the summonses., § 87(2)(b) stated that he wanted the “four” officers’ names and shield numbers. However the investigation determined there were five officers in the van.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: